

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 SKYLER FOWLER,

4 Plaintiff

5 v.

6 STEVE SISOLAK, et al.,

7 Defendants

Case No. 2:19-cv-01353-JAD-NJK

Order Dismissing Case

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9 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state
10 prisoner. On August 7, 2019, this Court issued an order directing plaintiff to file a fully
11 complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 within 30
12 days from the date of that order.¹ The 30-day period has now expired, and plaintiff has not filed
13 an application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to
14 the Court's order.

15 District courts have the inherent power to control their dockets and “[i]n the exercise of
16 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.² A
17 court may dismiss an action, with prejudice, based on a party's failure to prosecute an action,
18 failure to obey a court order, or failure to comply with local rules.³ In determining whether to

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20 ¹ ECF No. 3 at 2.

21 ² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

22 ³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
23 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
2 local rules, the court must consider several factors: (1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
5 availability of less drastic alternatives.⁴

6 In the instant case, the Court finds that the first two factors, the public's interest in
7 expeditiously resolving this litigation and the Court's interest in managing the docket, weigh in
8 favor of dismissal. The third factor, risk of prejudice to defendants, also weighs in favor of
9 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
10 filing a pleading ordered by the court or prosecuting an action.⁵ The fourth factor – public policy
11 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor of
12 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the
13 court's order will result in dismissal satisfies the "consideration of alternatives" requirement.⁶
14 The Court's order requiring plaintiff to file an application to proceed *in forma pauperis* or pay
15 the full filing fee expressly stated: "IT IS FURTHER ORDERED that if Plaintiff does not timely
16 comply with this order, dismissal of this action may result."⁷ Thus, plaintiff had adequate
17 warning that dismissal would result from his noncompliance with the Court's order to file an
18 application to proceed *in forma pauperis* or pay the full filing fee within 30 days.

21 ⁴ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23 ⁵ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁶ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁷ ECF No. 3 at 2.

1 It is therefore ordered that **THIS ACTION IS DISMISSED** without prejudice based on
2 plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing fee in
3 compliance with this Court's August 7, 2019, order. The Clerk of Court is directed to ENTER
4 JUDGMENT accordingly and CLOSE THIS CASE.

5 Dated: September 23, 2019

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8 U.S. District Judge Jennifer A. Dorsey
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